



**UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/137,491	08/21/98	WEINGER	E 9789.3801

MALIN, HALEY & DIMAGGIO, PA  
1936 S. ANDREWS AVENUE  
FORT LAUDERDALE FL 33316

MM91/1003

EXAMINER

HOBDEN, P

ART UNIT

PAPER NUMBER

2876

DATE MAILED:

10/03/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

09/137,491

Applicant(s)

WEINGER, ELLIOTT B.

Examiner

Pamela R. Hobden

Art Unit

2876

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- 1) ☒ Responsive to communication(s) filed on 30 June 2000.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some \* c) ☐ None of the CERTIFIED copies of the priority documents have been:
1. ☐ received.
2. ☐ received in Application No. (Series Code / Serial Number) \_\_\_\_\_.
3. ☐ received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

## Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 18) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other:

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

1. Claims 6, 8 are rejected under 35 U.S.C. 102(e) as being anticipated by Wilk. Wilk teaches a system for combining patient data on with medical diagnostic equipment. (Column 5, lines 7-57) that utilizes a computer (fig. 4, item 68) to accept digital images from a diagnostic machine such as an x-ray (Column 5 line 53), through a digitizer, (66a-c, 70a-n), incorporates them with patient data through the use of an input device, 72, (column 4, line 56-column 5 line 30), a **printer**, 76, a display device, 74, a storage device, (64 and specifically, 82, column 7, lines 40-45), a modem, (Fig. 6, item 116), and telecommunication devices, (62A and 62B).

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application

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by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

3. Claims 1-3,5,7 9-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilk in view of Godlewski et al. Wilk's teachings are as described above. Wilk fails to teach a system that specifically utilizes a high-resolution printer and monitor, and while specifying a computer, 24, in figure 1, he doesn't specifically mention the incorporation of the medical data with the image and shown on a monitor, but rather specifies that it be sent to an output device, 30, which in fig. 1, he identifies as a printer. Godlewski teaches a Digital radiographic image quality control workstation, which incorporates a high resolution graphics printer (fig 4 item 216) and monitor (figure 4, item 204), as well as the combination of patient data with image storage. Both method and system are discussed in Wilk and Godlewski's teachings, with various portions of method of use being inherent in the design and structure of the information management devices as described. Godlewski also teaches the use of a storage medium, (column 7, lines 65-column 8, line 6), similar to Wilk's use of a storage medium. Godlewski's teachings would be obvious additions to one skilled in the art, as the intricacies of the images potentially to be examined would demand the clarity of a high definition monitor and printer if an image were to be printed for later use. It also would be obvious to one skilled in the art to incorporate the patient data with the image presented on the screen, if one were to assume that the computer (24) in Fig. 1 of Wilk did incorporate a monitor. Therefore, such modifications would have been an obvious extension as taught by Wilk.

4. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wilk and Godlewski as applied to claim 1 above, and further in view of Wright et al. The teachings of Wilk have been discussed above. Wilk fails to teach a device that specifically utilizes a facsimile machine as a data transfer device.

Wright et al. teaches a device whose primary function is an open architecture cardiology information system. He fails to specifically disclose the above system as being designed for X-ray collection and processing. Wright's system takes digital data, (via the scanner,) and inputs it into the system.

Wright teaches the addition of a facsimile device, specifically mentioned as one telecommunications device. (See figure 4) This modification would be obvious to one skilled in the art. A facsimile machine typically has lower resolution graphics than what would be available in a electronically transferred image file visible through either a high resolution graphics monitor or a high resolution graphics printer. However, it is an option readily available to the user as a "quick look". As Wilk does mention the use of telecommunication devices in his system, this option is not precluded in the functionality of his teachings.

### ***Response to Arguments***

5. Applicant's arguments filed 7/19/00 have been fully considered but they are not persuasive. The use of a printer to provide hard copy storage of digital data in the form of x-rays is notoriously old to one skilled in the art. Applicants arguments are not responsive in that they do not adequately reflect the difference between the instant invention and that disclosed in the prior art as discussed.

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6. In response to applicant's argument that Wilk is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Wilk's disclosure is reasonably pertinent to the particular problem with which the applicant is concerned, mainly the use of a printer to provide hard copy storage of x-ray images. As demonstrated through most home computer systems, the use of a printer is necessary to provide hard copy storage and is notoriously old to one skilled in the art.

### ***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pamela R. Hobden whose telephone number is (703)-306-5435. The examiner can normally be reached on Monday-Thursday 8:30-6:00, Alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald Hajec can be reached on (703)-308-4075. The fax phone numbers for the organization where this application or proceeding is assigned are (703)-308-7382 for regular communications and (703)-308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)-308-0956.

prh  
October 2, 2000

  
David P. Porta  
Primary Examiner